

A bill for an act

relating to children; modifying driver's license requirements for foster children; requiring in-court reviews; expanding the definition of parent for child protection proceedings; amending Minnesota Statutes 2008, sections 171.04, subdivision 1, by adding a subdivision; 171.05, subdivision 2; 171.055, subdivision 1; 245C.33, subdivision 4, by adding a subdivision; 260C.163, subdivisions 1, 2; 260C.193, subdivision 6; 260C.317, subdivision 3; Minnesota Statutes 2009 Supplement, sections 260C.007, subdivision 25; 260C.150, subdivision 3; 260C.151, subdivision 1; 260C.178, subdivision 3; 260C.201, subdivision 11; 260C.212, subdivision 7; 260C.331, subdivision 1; 260C.456.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

ARTICLE 1

FOSTER CHILDREN; DRIVER'S LICENSE

Section 1. Minnesota Statutes 2008, section 171.04, subdivision 1, is amended to read:

Subdivision 1. **Persons not eligible.** The department shall not issue a driver's license:

(1) to any person under 18 years unless:

(i) the applicant is 16 or 17 years of age and has a previously issued valid license from another state or country or the applicant has, for the 12 consecutive months preceding application, held a provisional license and during that time has incurred (A) no conviction for a violation of section 169A.20, 169A.33, 169A.35, or sections 169A.50 to 169A.53, (B) no conviction for a crash-related moving violation, and (C) not more than one conviction for a moving violation that is not crash related. "Moving violation" means a violation of a traffic regulation but does not include a parking violation, vehicle equipment violation, or warning citation;

(ii) the application for a license is approved by (A) either parent when both reside in the same household as the minor applicant or, if otherwise, then (B) the parent or spouse of the parent having custody or, in the event there is no court order for custody, then (C) the parent or spouse of the parent with whom the minor is living or, if subitems (A) to (C) do not apply, then (D) the guardian having custody of the minor, (E) the foster parent or director of the transitional living program in which the child resides or, in the event a person under the age of 18 has no living father, mother, or guardian, or is married or otherwise legally emancipated, then ~~(E)~~ (F) the minor's adult spouse, adult close family member, or adult employer; provided, that the approval required by this item contains a verification of the age of the applicant and the identity of the parent, guardian, adult spouse, adult close family member, or adult employer; and

(iii) the applicant presents a certification by the person who approves the application under item (ii), stating that the applicant has driven a motor vehicle accompanied by and under supervision of a licensed driver at least 21 years of age for at least ten hours during the period of provisional licensure;

(2) to any person who is 18 years of age or younger, unless the person has applied for, been issued, and possessed the appropriate instruction permit for a minimum of six months, and, with respect to a person under 18 years of age, a provisional license for a minimum of 12 months;

(3) to any person who is 19 years of age or older, unless that person has applied for, been issued, and possessed the appropriate instruction permit for a minimum of three months;

(4) to any person whose license has been suspended during the period of suspension except that a suspended license may be reinstated during the period of suspension upon the licensee furnishing proof of financial responsibility in the same manner as provided in the Minnesota No-Fault Automobile Insurance Act;

(5) to any person whose license has been revoked except upon furnishing proof of financial responsibility in the same manner as provided in the Minnesota No-Fault Automobile Insurance Act and if otherwise qualified;

(6) to any drug-dependent person, as defined in section 254A.02, subdivision 5;

(7) to any person who has been adjudged legally incompetent by reason of mental illness, mental deficiency, or inebriation, and has not been restored to capacity, unless the department is satisfied that the person is competent to operate a motor vehicle with safety to persons or property;

(8) to any person who is required by this chapter to take a vision, knowledge, or road examination, unless the person has successfully passed the examination. An applicant

who fails four road tests must complete a minimum of six hours of behind-the-wheel instruction with an approved instructor before taking the road test again;

(9) to any person who is required under the Minnesota No-Fault Automobile Insurance Act to deposit proof of financial responsibility and who has not deposited the proof;

(10) to any person when the commissioner has good cause to believe that the operation of a motor vehicle on the highways by the person would be inimical to public safety or welfare;

(11) to any person when, in the opinion of the commissioner, the person is afflicted with or suffering from a physical or mental disability or disease that will affect the person in a manner as to prevent the person from exercising reasonable and ordinary control over a motor vehicle while operating it upon the highways;

(12) to a person who is unable to read and understand official signs regulating, warning, and directing traffic;

(13) to a child for whom a court has ordered denial of driving privileges under section 260C.201, subdivision 1, or 260B.235, subdivision 5, until the period of denial is completed; or

(14) to any person whose license has been canceled, during the period of cancellation.

Sec. 2. Minnesota Statutes 2008, section 171.04, is amended by adding a subdivision to read:

Subd. 3. **Foster parent; liability.** A foster parent or director of a transitional living program who approves an application and provides certification under subdivision 1, clause (1), item (iii), for a foster child who resides in the foster parent's home or the director's program shall not be liable for the negligence or willful misconduct of the minor license holder.

Sec. 3. Minnesota Statutes 2008, section 171.05, subdivision 2, is amended to read:

Subd. 2. **Person less than 18 years of age.** (a) Notwithstanding any provision in subdivision 1 to the contrary, the department may issue an instruction permit to an applicant who is 15, 16, or 17 years of age and who:

(1) has completed a course of driver education in another state, has a previously issued valid license from another state, or is enrolled in either:

(i) a public, private, or commercial driver education program that is approved by the commissioner of public safety and that includes classroom and behind-the-wheel training; or

(ii) an approved behind-the-wheel driver education program when the student is receiving full-time instruction in a home school within the meaning of sections 120A.22 and 120A.24, the student is working toward a homeschool diploma, the student's status as a homeschool student has been certified by the superintendent of the school district in which the student resides, and the student is taking home-classroom driver training with classroom materials approved by the commissioner of public safety;

(2) has completed the classroom phase of instruction in the driver education program;

(3) has passed a test of the applicant's eyesight;

(4) has passed a department-administered test of the applicant's knowledge of traffic laws;

(5) has completed the required application, which must be approved by (i) either parent when both reside in the same household as the minor applicant or, if otherwise, then (ii) the parent or spouse of the parent having custody or, in the event there is no court order for custody, then (iii) the parent or spouse of the parent with whom the minor is living or, if items (i) to (iii) do not apply, then (iv) the guardian having custody of the minor, (v) the foster parent or the director of the transitional living program in which the child resides or, in the event a person under the age of 18 has no living father, mother, or guardian, or is married or otherwise legally emancipated, then ~~(v)~~ (vi) the applicant's adult spouse, adult close family member, or adult employer; provided, that the approval required by this clause contains a verification of the age of the applicant and the identity of the parent, guardian, adult spouse, adult close family member, or adult employer; and

(6) has paid the fee required in section 171.06, subdivision 2.

(b) The instruction permit is valid for two years from the date of application and may be renewed upon payment of a fee equal to the fee for issuance of an instruction permit under section 171.06, subdivision 2.

(c) A foster parent who approves an application for a foster child who resides in the foster parent's home or the director of the transitional living program who approves an application for a child residing in the director's program shall not be liable for the negligence or willful misconduct of the minor license holder.

Sec. 4. Minnesota Statutes 2008, section 171.055, subdivision 1, is amended to read:

Subdivision 1. **Requirements for provisional license.** (a) The department may issue a provisional license, which must be distinctive in appearance from a driver's license, to an applicant who:

(1) has reached the age of 16 years;

(2) during the six months immediately preceding the application for the provisional license has possessed an instruction permit and has incurred (i) no convictions for a violation of section 169A.20, 169A.33, 169A.35, or sections 169A.50 to 169A.53, (ii) no convictions for a crash-related moving violation, and (iii) no convictions for a moving violation that is not crash related;

(3) has successfully completed a course of driver education in accordance with department rules;

(4) completes the required application, which must be approved by (i) either parent when both reside in the same household as the minor applicant or, if otherwise, then (ii) the parent or spouse of the parent having custody or, in the event there is no court order for custody, then (iii) the parent or spouse of the parent with whom the minor is living or, if items (i) to (iii) do not apply, then (iv) the guardian having custody of the minor, (v) the foster parent or the director of the transitional living program in which the child resides or, in the event a person under the age of 18 has no living father, mother, or guardian, or is married or otherwise legally emancipated, then ~~(v)~~ (vi) the applicant's adult spouse, adult close family member, or adult employer; provided, that the approval required by this clause contains a verification of the age of the applicant and the identity of the parent, guardian, adult spouse, adult close family member, or adult employer;

(5) presents certification by the person who approves the application under clause (4) stating that the applicant has driven a motor vehicle accompanied by and under the supervision of a licensed driver at least 21 years of age, for no less than 30 hours, at least ten of which were nighttime hours; and

(6) pays the fee required in section 171.06, subdivision 2.

(b) For purposes of this section, "moving violation" has the meaning given it in section 171.04, subdivision 1.

(c) Notwithstanding paragraph (a), clause (2), the commissioner shall not issue a provisional license to a person who has ever incurred a conviction for violation of section 169A.20, 169A.33, or 169A.35; a violation of a provision of sections 169A.50 to 169A.53; or a crash-related moving violation, and at the time of the conviction the person did not possess an instruction permit.

(d) A foster parent who approves an application for a foster child who resides in the foster parent's home or the director of the transitional living program who approves an application for a child residing in the director's program shall not be liable for the negligence or willful misconduct of the minor license holder.

ARTICLE 2

MISCELLANEOUS

Section 1. Minnesota Statutes 2008, section 245C.33, subdivision 4, is amended to read:

Subd. 4. **Information commissioner reviews.** (a) The commissioner shall review the following information regarding the background study subject:

(1) the information under section 245C.08, subdivisions 1, 3, and 4;

(2) information from the child abuse and neglect registry for any state in which the subject has resided for the past five years; and

(3) information from national crime information databases, when required under section 245C.08.

(b) The commissioner shall provide any information collected under this subdivision to the county or private agency that initiated the background study. The commissioner shall ~~indicate if~~ also provide the agency:

(1) notice whether the information collected shows that the subject of the background study has a conviction listed in United States Code, title 42, section 671(a)(20)(A); and

(2) the date of all adoption-related background studies completed on the subject by the commissioner after June 30, 2007, and the name of the county or private agency that initiated the adoption-related background study.

Sec. 2. Minnesota Statutes 2008, section 245C.33, is amended by adding a subdivision to read:

Subd. 5. **Studies for children under guardianship of the commissioner.** (a) When the adoption of a child under guardianship of the commissioner is facilitated by a private agency licensed to place children for adoption, a county agency may initiate the background studies required under this section and section 259.41. Upon receipt of the background study results from the commissioner, the county agency may provide those results to the private agency.

(b) When a county agency initiates a background study under paragraph (a) for a private agency licensed to place children for adoption, the private agency shall have met the background study requirements under this section and section 259.41 upon receipt of the background study results from the county agency.

Sec. 3. Minnesota Statutes 2008, section 260C.193, subdivision 6, is amended to read:

Subd. 6. **Termination of jurisdiction.** The court may dismiss the petition or otherwise terminate its jurisdiction on its own motion or on the motion or petition of any

interested party at any time. Unless terminated by the court, and except as otherwise provided in this subdivision, the jurisdiction of the court shall continue until the individual becomes ~~19~~ 21 years of age if the court determines it is in the best interest of the individual to do so.

Sec. 4. Minnesota Statutes 2008, section 260C.317, subdivision 3, is amended to read:

Subd. 3. **Order; retention of jurisdiction.** (a) A certified copy of the findings and the order terminating parental rights, and a summary of the court's information concerning the child shall be furnished by the court to the commissioner or the agency to which guardianship is transferred. The orders shall be on a document separate from the findings. The court shall furnish the individual to whom guardianship is transferred a copy of the order terminating parental rights.

(b) The court shall retain jurisdiction in a case where adoption is the intended permanent placement disposition until the child's adoption is finalized, ~~the child is 18 years of age,~~ or the child is otherwise ordered discharged from the jurisdiction of the court. The guardian ad litem and counsel for the child shall continue on the case until an adoption decree is entered. A hearing must be held every 90 days following termination of parental rights for the court to review progress toward an adoptive placement and the specific recruitment efforts the agency has taken to find an adoptive family or other placement living arrangement for the child and to finalize the adoption or other permanency plan.

(c) The responsible social services agency may make a determination of compelling reasons for a child to be in long-term foster care when the agency has made exhaustive efforts to recruit, identify, and place the child in an adoptive home, and the child continues in foster care for at least 24 months after the court has issued the order terminating parental rights. A child of any age who is under the guardianship of the commissioner of the Department of Human Services and is legally available for adoption may not refuse or waive the commissioner's agent's exhaustive efforts to recruit, identify, and place the child in an adoptive home required under paragraph (b) or sign a document relieving county social services agencies of all recruitment efforts on the child's behalf. Upon approving the agency's determination of compelling reasons, the court may order the child placed in long-term foster care. At least every 12 months thereafter as long as the child continues in out-of-home placement, the court shall conduct a permanency review hearing to determine the future status of the child using the review requirements of section 260C.201, subdivision 11, paragraph (g).

(d) The court shall retain jurisdiction through the child's minority in a case where long-term foster care is the permanent disposition whether under paragraph (c) or section

8.1 260C.201, subdivision 11, or until the individual becomes 21 years of age if the court
8.2 determines it is in the best interest of the individual to do so.

8.3 Sec. 5. Minnesota Statutes 2009 Supplement, section 260C.331, subdivision 1, is
8.4 amended to read:

8.5 Subdivision 1. **Care, examination, or treatment.** (a) Except where parental rights
8.6 are terminated,

8.7 (1) whenever legal custody of a child is transferred by the court to a responsible
8.8 social services agency,

8.9 (2) whenever legal custody is transferred to a person other than the responsible social
8.10 services agency, but under the supervision of the responsible social services agency, or

8.11 (3) whenever a child is given physical or mental examinations or treatment under
8.12 order of the court, and no provision is otherwise made by law for payment for the care,
8.13 examination, or treatment of the child, these costs are a charge upon the welfare funds of
8.14 the county in which proceedings are held upon certification of the judge of juvenile court.

8.15 (b) The court shall order, and the responsible social services agency shall require,
8.16 the parents or custodian of a child, while the child is under the age of 18, to use the
8.17 total income and resources attributable to the child for the period of care, examination,
8.18 or treatment, except for clothing and personal needs allowance as provided in section
8.19 256B.35, to reimburse the county for the cost of care, examination, or treatment. Income
8.20 and resources attributable to the child include, but are not limited to, Social Security
8.21 benefits, supplemental security income (SSI), veterans benefits, railroad retirement
8.22 benefits and child support. When the child is over the age of 18, and continues to receive
8.23 care, examination, or treatment, the court shall order, and the responsible social services
8.24 agency shall require, reimbursement from the child for the cost of care, examination, or
8.25 treatment from the income and resources attributable to the child less the clothing and
8.26 personal needs allowance. Income does not include earnings from a child over the age
8.27 of 18 who is working as part of a plan under section 260C.212, subdivision 1, paragraph
8.28 (c), clause (11), to transition from foster care, or the income and resources from sources
8.29 other than supplemental security income and child support that are needed to complete the
8.30 requirements listed in section 260C.212, subdivision 7, paragraph (d), clause (2).

8.31 (c) If the income and resources attributable to the child are not enough to reimburse
8.32 the county for the full cost of the care, examination, or treatment, the court shall inquire
8.33 into the ability of the parents to support the child and, after giving the parents a reasonable
8.34 opportunity to be heard, the court shall order, and the responsible social services agency
8.35 shall require, the parents to contribute to the cost of care, examination, or treatment of

the child. When determining the amount to be contributed by the parents, the court shall use a fee schedule based upon ability to pay that is established by the responsible social services agency and approved by the commissioner of human services. The income of a stepparent who has not adopted a child shall be excluded in calculating the parental contribution under this section.

(d) The court shall order the amount of reimbursement attributable to the parents or custodian, or attributable to the child, or attributable to both sources, withheld under chapter 518A from the income of the parents or the custodian of the child. A parent or custodian who fails to pay without good reason may be proceeded against for contempt, or the court may inform the county attorney, who shall proceed to collect the unpaid sums, or both procedures may be used.

(e) If the court orders a physical or mental examination for a child, the examination is a medically necessary service for purposes of determining whether the service is covered by a health insurance policy, health maintenance contract, or other health coverage plan. Court-ordered treatment shall be subject to policy, contract, or plan requirements for medical necessity. Nothing in this paragraph changes or eliminates benefit limits, conditions of coverage, co-payments or deductibles, provider restrictions, or other requirements in the policy, contract, or plan that relate to coverage of other medically necessary services.

(f) Notwithstanding paragraph (b), (c), or (d), a parent, custodian, or guardian of the child is not required to use income and resources attributable to the child to reimburse the county for costs of care and is not required to contribute to the cost of care of the child during any period of time when the child is returned to the home of that parent, custodian, or guardian pursuant to a trial home visit under section 260C.201, subdivision 1, paragraph (a).

Sec. 6. Minnesota Statutes 2009 Supplement, section 260C.456, is amended to read:

260C.456 FOSTER CARE BENEFITS UNTIL AGE 21.

Upon the request of a person, at any time, between the ages of 18 and 21 who had been receiving foster care benefits in the six consecutive months prior to the person's 18th birthday, or who was discharged while on runaway status after age 15, ~~or who had been under the state guardianship as dependent or neglected,~~ the local agency shall develop, in conjunction with the person and other appropriate parties, a specific plan related to that person's vocational, educational, social, or maturational needs and, to the extent funds are available, shall ensure that any foster care, housing, or counseling benefits are tied to that plan. Youth who left foster care while under state guardianship as dependent or

10.1 neglected retain their ability to return to foster care for placement at any time between the
10.2 ages of 18 and 21.

10.3 **ARTICLE 3**

10.4 **FOSTER CARE**

10.5 Section 1. Minnesota Statutes 2008, section 260C.163, subdivision 1, is amended to
10.6 read:

10.7 Subdivision 1. **General.** (a) Except for hearings arising under section 260C.425,
10.8 hearings on any matter shall be without a jury and may be conducted in an informal
10.9 manner. In all adjudicatory proceedings involving a child alleged to be in need of
10.10 protection or services, the court shall admit only evidence that would be admissible in a
10.11 civil trial. To be proved at trial, allegations of a petition alleging a child to be in need of
10.12 protection or services must be proved by clear and convincing evidence.

10.13 (b) Except for proceedings involving a child alleged to be in need of protection or
10.14 services and petitions for the termination of parental rights, hearings may be continued or
10.15 adjourned from time to time. In proceedings involving a child alleged to be in need of
10.16 protection or services and petitions for the termination of parental rights, hearings may not
10.17 be continued or adjourned for more than one week unless the court makes specific findings
10.18 that the continuance or adjournment is in the best interests of the child. If a hearing is held
10.19 on a petition involving physical or sexual abuse of a child who is alleged to be in need of
10.20 protection or services or neglected and in foster care, the court shall file the decision with
10.21 the court administrator as soon as possible but no later than 15 days after the matter is
10.22 submitted to the court. When a continuance or adjournment is ordered in any proceeding,
10.23 the court may make any interim orders as it deems in the best interests of the minor in
10.24 accordance with the provisions of sections 260C.001 to 260C.421.

10.25 (c) Absent exceptional circumstances, hearings under this chapter are presumed to
10.26 be accessible to the public, however the court may close any hearing and the records
10.27 related to any matter as provided in the Minnesota Rules of Juvenile Protection Procedure.

10.28 (d) Adoption hearings shall be conducted in accordance with the provisions of
10.29 laws relating to adoptions.

10.30 (e) In any permanency hearing, including the transition of a child from foster care to
10.31 independent living, the court shall ensure that ~~any~~ its consult with the child during the
10.32 hearing is in an age-appropriate manner.

10.33 Sec. 2. Minnesota Statutes 2008, section 260C.163, subdivision 2, is amended to read:

Subd. 2. **Right to participate in proceedings.** A child who is the subject of a petition, and the parents, guardian, or legal custodian of the child have the right to participate in all proceedings on a petition, including the opportunity to personally attend all hearings. Official tribal representatives have the right to participate in any proceeding that is subject to the Indian Child Welfare Act of 1978, United States Code, title 25, sections 1901 to 1963.

Any grandparent of the child has a right to participate in the proceedings to the same extent as a parent, if the child has lived with the grandparent within the two years preceding the filing of the petition. At the first hearing following the filing of a petition, the court shall ask whether the child has lived with a grandparent within the last two years, except that the court need not make this inquiry if the petition states that the child did not live with a grandparent during this time period. Failure to notify a grandparent of the proceedings is not a jurisdictional defect.

If, in a proceeding involving a child in need of protection or services, the responsible social services agency recommends transfer of permanent legal and physical custody to a relative, the relative has a right to participate as a party, and thereafter shall receive notice of any hearing in the proceedings.

Sec. 3. Minnesota Statutes 2009 Supplement, section 260C.201, subdivision 11, is amended to read:

Subd. 11. **Review of court-ordered placements; permanent placement determination.** (a) This subdivision and subdivision 11a do not apply to cases where the child is in foster care for treatment of the child's developmental disability or emotional disturbance under chapter 260D. Foster care placements of children for treatment are governed by chapter 260D. In all other cases where the child is in foster care or in the care of a noncustodial parent under subdivision 1, the court shall commence proceedings to determine the permanent status of a child not later than 12 months after the child is placed in foster care or in the care of a noncustodial parent. At the admit-deny hearing commencing such proceedings, the court shall determine whether there is a prima facie basis for finding that the agency made reasonable efforts, or in the case of an Indian child active efforts, required under section 260.012 and proceed according to the rules of juvenile court.

For purposes of this subdivision, the date of the child's placement in foster care is the earlier of the first court-ordered placement or 60 days after the date on which the child has been voluntarily placed in foster care by the child's parent or guardian. For purposes of this subdivision, time spent by a child under the protective supervision of the

12.1 responsible social services agency in the home of a noncustodial parent pursuant to an
12.2 order under subdivision 1 counts towards the requirement of a permanency hearing under
12.3 this subdivision or subdivision 11a. Time spent on a trial home visit counts towards the
12.4 requirement of a permanency hearing under this subdivision and a permanency review
12.5 for a child under eight years of age under subdivision 11a.

12.6 For purposes of this subdivision, 12 months is calculated as follows:

12.7 (1) during the pendency of a petition alleging that a child is in need of protection
12.8 or services, all time periods when a child is placed in foster care or in the home of a
12.9 noncustodial parent are cumulated;

12.10 (2) if a child has been placed in foster care within the previous five years under one
12.11 or more previous petitions, the lengths of all prior time periods when the child was placed
12.12 in foster care within the previous five years are cumulated. If a child under this clause
12.13 has been in foster care for 12 months or more, the court, if it is in the best interests of the
12.14 child and for compelling reasons, may extend the total time the child may continue out
12.15 of the home under the current petition up to an additional six months before making a
12.16 permanency determination.

12.17 (b) Unless the responsible social services agency recommends return of the child
12.18 to the custodial parent or parents, not later than 30 days prior to the admit-deny hearing
12.19 required under paragraph (a) and the rules of juvenile court, the responsible social services
12.20 agency shall file pleadings in juvenile court to establish the basis for the juvenile court to
12.21 order permanent placement of the child, including a termination of parental rights petition,
12.22 according to paragraph (d). Notice of the hearing and copies of the pleadings must be
12.23 provided pursuant to section 260C.152.

12.24 (c) The permanency proceedings shall be conducted in a timely fashion including
12.25 that any trial required under section 260C.163 shall be commenced within 60 days of the
12.26 admit-deny hearing required under paragraph (a). At the conclusion of the permanency
12.27 proceedings, the court shall:

12.28 (1) order the child returned to the care of the parent or guardian from whom the
12.29 child was removed; or

12.30 (2) order a permanent placement or termination of parental rights if permanent
12.31 placement or termination of parental rights is in the child's best interests. The "best
12.32 interests of the child" means all relevant factors to be considered and evaluated. Transfer
12.33 of permanent legal and physical custody, termination of parental rights, or guardianship
12.34 and legal custody to the commissioner through a consent to adopt are preferred
12.35 permanency options for a child who cannot return home.

13.1 (d) If the child is not returned to the home, the court must order one of the following
13.2 dispositions:

13.3 (1) permanent legal and physical custody to a relative in the best interests of the
13.4 child according to the following conditions:

13.5 (i) an order for transfer of permanent legal and physical custody to a relative shall
13.6 only be made after the court has reviewed the suitability of the prospective legal and
13.7 physical custodian;

13.8 (ii) in transferring permanent legal and physical custody to a relative, the juvenile
13.9 court shall follow the standards applicable under this chapter and chapter 260, and the
13.10 procedures set out in the juvenile court rules;

13.11 (iii) an order establishing permanent legal and physical custody under this
13.12 subdivision must be filed with the family court;

13.13 (iv) a transfer of legal and physical custody includes responsibility for the protection,
13.14 education, care, and control of the child and decision making on behalf of the child;

13.15 (v) the social services agency may bring a petition or motion naming a fit and
13.16 willing relative as a proposed permanent legal and physical custodian. The commissioner
13.17 of human services shall annually prepare for counties information that must be given to
13.18 proposed custodians about their legal rights and obligations as custodians together with
13.19 information on financial and medical benefits for which the child is eligible; and

13.20 (vi) the juvenile court may maintain jurisdiction over the responsible social services
13.21 agency, the parents or guardian of the child, the child, and the permanent legal and
13.22 physical custodian for purposes of ensuring appropriate services are delivered to the child
13.23 and permanent legal custodian or for the purpose of ensuring conditions ordered by the
13.24 court related to the care and custody of the child are met;

13.25 (2) termination of parental rights when the requirements of sections 260C.301 to
13.26 260C.328 are met or according to the following conditions:

13.27 (i) order the social services agency to file a petition for termination of parental
13.28 rights in which case all the requirements of sections 260C.301 to 260C.328 remain
13.29 applicable; and

13.30 (ii) an adoption completed subsequent to a determination under this subdivision may
13.31 include an agreement for communication or contact under section 259.58;

13.32 (3) long-term foster care according to the following conditions:

13.33 (i) the court may order a child into long-term foster care only if it approves the
13.34 responsible social service agency's compelling reasons that neither an award of permanent
13.35 legal and physical custody to a relative, nor termination of parental rights is in the child's
13.36 best interests;

14.1 (ii) further, the court may only order long-term foster care for the child under this
14.2 section if it finds the following:

14.3 (A) the child has reached age 12 and the responsible social services agency has made
14.4 reasonable efforts to locate and place the child with an adoptive family or with a fit and
14.5 willing relative who will agree to a transfer of permanent legal and physical custody of
14.6 the child, but such efforts have not proven successful; or

14.7 (B) the child is a sibling of a child described in subitem (A) and the siblings have
14.8 a significant positive relationship and are ordered into the same long-term foster care
14.9 home; and

14.10 (iii) at least annually, the responsible social services agency reconsiders its provision
14.11 of services to the child and the child's placement in long-term foster care to ensure that:

14.12 (A) long-term foster care continues to be the most appropriate legal arrangement
14.13 for meeting the child's need for permanency and stability, including whether there is
14.14 another permanent placement option under this chapter that would better serve the child's
14.15 needs and best interests;

14.16 (B) whenever possible, there is an identified long-term foster care family that is
14.17 committed to being the foster family for the child as long as the child is a minor or under
14.18 the jurisdiction of the court;

14.19 (C) the child is receiving appropriate services or assistance to maintain or build
14.20 connections with the child's family and community;

14.21 (D) the child's physical and mental health needs are being appropriately provided
14.22 for; and

14.23 (E) the child's educational needs are being met;

14.24 (4) foster care for a specified period of time according to the following conditions:

14.25 (i) foster care for a specified period of time may be ordered only if:

14.26 (A) the sole basis for an adjudication that the child is in need of protection or
14.27 services is the child's behavior;

14.28 (B) the court finds that foster care for a specified period of time is in the best
14.29 interests of the child; and

14.30 (C) the court approves the responsible social services agency's compelling reasons
14.31 that neither an award of permanent legal and physical custody to a relative, nor termination
14.32 of parental rights is in the child's best interests;

14.33 (ii) the order does not specify that the child continue in foster care for any period
14.34 exceeding one year; or

14.35 (5) guardianship and legal custody to the commissioner of human services under
14.36 the following procedures and conditions:

15.1 (i) there is an identified prospective adoptive home agreed to by the responsible
15.2 social services agency having legal custody of the child pursuant to court order under this
15.3 section that has agreed to adopt the child and the court accepts the parent's voluntary
15.4 consent to adopt under section 259.24, except that such consent executed by a parent under
15.5 this item, following proper notice that consent given under this provision is irrevocable
15.6 upon acceptance by the court, shall be irrevocable unless fraud is established and an order
15.7 issues permitting revocation as stated in item (vii);

15.8 (ii) if the court accepts a consent to adopt in lieu of ordering one of the other
15.9 enumerated permanency dispositions, the court must review the matter at least every 90
15.10 days. The review will address the reasonable efforts of the agency to achieve a finalized
15.11 adoption;

15.12 (iii) a consent to adopt under this clause vests all legal authority regarding the child,
15.13 including guardianship and legal custody of the child, with the commissioner of human
15.14 services as if the child were a state ward after termination of parental rights;

15.15 (iv) the court must forward a copy of the consent to adopt, together with a certified
15.16 copy of the order transferring guardianship and legal custody to the commissioner, to
15.17 the commissioner;

15.18 (v) if an adoption is not finalized by the identified prospective adoptive parent within
15.19 12 months of the execution of the consent to adopt under this clause, the commissioner of
15.20 human services or the commissioner's delegate shall pursue adoptive placement in another
15.21 home unless the commissioner certifies that the failure to finalize is not due to either an
15.22 action or a failure to act by the prospective adoptive parent;

15.23 (vi) notwithstanding item (v), the commissioner of human services or the
15.24 commissioner's designee must pursue adoptive placement in another home as soon as the
15.25 commissioner or commissioner's designee determines that finalization of the adoption with
15.26 the identified prospective adoptive parent is not possible, that the identified prospective
15.27 adoptive parent is not willing to adopt the child, that the identified prospective adoptive
15.28 parent is not cooperative in completing the steps necessary to finalize the adoption, or
15.29 upon the commissioner's determination to withhold consent to the adoption.

15.30 (vii) unless otherwise required by the Indian Child Welfare Act, United States Code,
15.31 title 25, section 1913, a consent to adopt executed under this section, following proper
15.32 notice that consent given under this provision is irrevocable upon acceptance by the court,
15.33 shall be irrevocable upon acceptance by the court except upon order permitting revocation
15.34 issued by the same court after written findings that consent was obtained by fraud.

15.35 (e) In ordering a permanent placement of a child, the court must be governed by the
15.36 best interests of the child, including a review of the relationship between the child and

relatives and the child and other important persons with whom the child has resided or had significant contact. When the court has determined that permanent placement of the child away from the parent is necessary, the court shall consider permanent alternative homes that are available both inside and outside the state.

(f) Once a permanent placement determination has been made and permanent placement has been established, further court reviews are necessary if:

- (1) the placement is long-term foster care or foster care for a specified period of time;
- (2) the court orders further hearings because it has retained jurisdiction of a transfer of permanent legal and physical custody matter;
- (3) an adoption has not yet been finalized; or
- (4) there is a disruption of the permanent or long-term placement.

(g) Court reviews of an order for long-term foster care, whether under this section or section 260C.317, subdivision 3, paragraph (d), must be conducted at least yearly at an in-court appearance hearing and must review the child's out-of-home placement plan and the reasonable efforts of the agency to finalize the permanent plan for the child including the agency's efforts to:

(1) ensure that long-term foster care continues to be the most appropriate legal arrangement for meeting the child's need for permanency and stability or, if not, to identify and attempt to finalize another permanent placement option under this chapter that would better serve the child's needs and best interests;

(2) identify a specific long-term foster home for the child, if one has not already been identified;

(3) support continued placement of the child in the identified home, if one has been identified;

(4) ensure appropriate services are provided to address the physical health, mental health, and educational needs of the child during the period of long-term foster care and also ensure appropriate services or assistance to maintain relationships with appropriate family members and the child's community; and

(5) plan for the child's independence upon the child's leaving long-term foster care living as required under section 260C.212, subdivision 1.

(h) In the event it is necessary for a child that has been ordered into foster care for a specified period of time to be in foster care longer than one year after the permanency hearing held under this section, not later than 12 months after the time the child was ordered into foster care for a specified period of time, the matter must be returned to court for a review of the appropriateness of continuing the child in foster care and of the responsible social services agency's reasonable efforts to finalize a permanent plan for

the child; if it is in the child's best interests to continue the order for foster care for a specified period of time past a total of 12 months, the court shall set objectives for the child's continuation in foster care, specify any further amount of time the child may be in foster care, and review the plan for the safe return of the child to the parent.

(i) An order permanently placing a child out of the home of the parent or guardian must include the following detailed findings:

(1) how the child's best interests are served by the order;

(2) the nature and extent of the responsible social service agency's reasonable efforts, or, in the case of an Indian child, active efforts to reunify the child with the parent or guardian where reasonable efforts are required;

(3) the parent's or parents' efforts and ability to use services to correct the conditions which led to the out-of-home placement; and

(4) that the conditions which led to the out-of-home placement have not been corrected so that the child can safely return home.

(j) An order for permanent legal and physical custody of a child may be modified under sections 518.18 and 518.185. The social services agency is a party to the proceeding and must receive notice. A parent may only seek modification of an order for long-term foster care upon motion and a showing by the parent of a substantial change in the parent's circumstances such that the parent could provide appropriate care for the child and that removal of the child from the child's permanent placement and the return to the parent's care would be in the best interest of the child. The responsible social services agency may ask the court to vacate an order for long-term foster care upon a prima facie showing that there is a factual basis for the court to order another permanency option under this chapter and that such an option is in the child's best interests. Upon a hearing where the court determines that there is a factual basis for vacating the order for long-term foster care and that another permanent order regarding the placement of the child is in the child's best interests, the court may vacate the order for long-term foster care and enter a different order for permanent placement that is in the child's best interests. The court shall not require further reasonable efforts to reunify the child with the parent or guardian as a basis for vacating the order for long-term foster care and ordering a different permanent placement in the child's best interests. The county attorney must file pleadings and give notice as required under the rules of juvenile court in order to modify an order for long-term foster care under this paragraph.

(k) The court shall issue an order required under this section within 15 days of the close of the proceedings. The court may extend issuing the order an additional 15 days when necessary in the interests of justice and the best interests of the child.

(l) This paragraph applies to proceedings required under this subdivision when the child is on a trial home visit:

(1) if the child is on a trial home visit 12 months after the child was placed in foster care or in the care of a noncustodial parent as calculated in this subdivision, the responsible social services agency may file a report with the court regarding the child's and parent's progress on the trial home visit and its reasonable efforts to finalize the child's safe and permanent return to the care of the parent in lieu of filing the pleadings required under paragraph (b). The court shall make findings regarding reasonableness of the responsible social services efforts to finalize the child's return home as the permanent order in the best interests of the child. The court may continue the trial home visit to a total time not to exceed six months as provided in subdivision 1. If the court finds the responsible social services agency has not made reasonable efforts to finalize the child's return home as the permanent order in the best interests of the child, the court may order other or additional efforts to support the child remaining in the care of the parent; and

(2) if a trial home visit ordered or continued at proceedings under this subdivision terminates, the court shall recommence proceedings under this subdivision to determine the permanent status of the child not later than 30 days after the child is returned to foster care.

Sec. 4. Minnesota Statutes 2009 Supplement, section 260C.212, subdivision 7, is amended to read:

Subd. 7. Administrative or court review of placements. (a) There shall be an administrative review of the out-of-home placement plan of each child placed in foster care no later than 180 days after the initial placement of the child in foster care and at least every six months thereafter if the child is not returned to the home of the parent or parents within that time. The out-of-home placement plan must be monitored and updated at each administrative review. The administrative review shall be conducted by the responsible social services agency using a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review. The administrative review shall be open to participation by the parent or guardian of the child and the child, as appropriate.

(b) As an alternative to the administrative review required in paragraph (a), the court may, as part of any hearing required under the Minnesota Rules of Juvenile Protection Procedure, conduct a hearing to monitor and update the out-of-home placement plan pursuant to the procedure and standard in section 260C.201, subdivision 6, paragraph (d). The party requesting review of the out-of-home placement plan shall give parties to the

proceeding notice of the request to review and update the out-of-home placement plan. A court review conducted pursuant to section 260C.193; 260C.201, subdivision 1 or 11; 260C.141, subdivision 2 or 2a, clause (2); or 260C.317 shall satisfy the requirement for the review so long as the other requirements of this section are met.

(c) As appropriate to the stage of the proceedings and relevant court orders, the responsible social services agency or the court shall review:

- (1) the safety, permanency needs, and well-being of the child;
 - (2) the continuing necessity for and appropriateness of the placement;
 - (3) the extent of compliance with the out-of-home placement plan;
 - (4) the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care;
 - (5) the projected date by which the child may be returned to and safely maintained in the home or placed permanently away from the care of the parent or parents or guardian;
- and
- (6) the appropriateness of the services provided to the child.

(d) When a child is age 16 or older, in addition to any administrative review conducted by the agency, at the in-court review required under section 260C.201, subdivision 11, ~~paragraph (d), clause (3), item (iii);~~ or 260C.317, subdivision 3, clause (3), the court shall review the independent living plan required under subdivision 1, paragraph (c), clause (11), and the provision of services to the child related to the well-being of the child as the child prepares to leave foster care. The review shall include the actual plans related to each item in the plan necessary to the child's future safety and well-being when the child is no longer in foster care.

(1) At the court review, the responsible social services agency shall establish that it has given the notice required under Minnesota Rules, part 9560.0060, regarding the right to continued access to services for certain children in foster care past age 18 and of the right to appeal a denial of social services under section 256.045. If the agency is unable to establish that the notice, including the right to appeal a denial of social services, has been given, the court shall require the agency to give it.

(2) The court shall make findings regarding progress toward or accomplishment of the following goals:

- (i) the child has obtained a high school diploma or its equivalent;
- (ii) the child has completed a driver's education course or has demonstrated the ability to use public transportation in the child's community;
- (iii) the child is employed or enrolled in postsecondary education;

(iv) the child has applied for and obtained postsecondary education financial aid for which the child is eligible;

(v) the child has health care coverage and health care providers to meet the child's physical and mental health needs;

(vi) the child has applied for and obtained disability income assistance for which the child is eligible;

(vii) the child has obtained affordable housing with necessary supports, which does not include a homeless shelter;

(viii) the child has saved sufficient funds to pay for the first month's rent and a damage deposit;

(ix) the child has an alternative affordable housing plan, which does not include a homeless shelter, if the original housing plan is unworkable;

(x) the child, if male, has registered for the Selective Service; and

(xi) the child has a permanent connection to a caring adult.

(3) The court shall ensure that the responsible agency in conjunction with the placement provider assists the child in obtaining the following documents prior to the child's leaving foster care: a Social Security card; the child's birth certificate; a state identification card or driver's license, green card, or school visa; the child's school, medical, and dental records; a contact list of the child's medical, dental, and mental health providers; and contact information for the child's siblings, if the siblings are in foster care.

(e) When a child is age 17 or older, during the 90-day period immediately prior to the date the child is expected to be discharged from foster care, the responsible social services agency is required to provide the child with assistance and support in developing a transition plan that is personalized at the direction of the child. The transition plan must be as detailed as the child may elect and include specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and work force supports and employment services. The county shall also provide the individual with appropriate contact information if the individual needs more information or needs help dealing with a crisis situation through age 21.

Sec. 5. Minnesota Statutes 2008, section 260C.317, subdivision 3, is amended to read:

Subd. 3. Order; retention of jurisdiction. (a) A certified copy of the findings and the order terminating parental rights, and a summary of the court's information concerning the child shall be furnished by the court to the commissioner or the agency to which guardianship is transferred. The orders shall be on a document separate from the findings.

The court shall furnish the individual to whom guardianship is transferred a copy of the order terminating parental rights.

(b) The court shall retain jurisdiction in a case where adoption is the intended permanent placement disposition until the child's adoption is finalized, the child is 18 years of age, or the child is otherwise ordered discharged from the jurisdiction of the court. The guardian ad litem and counsel for the child shall continue on the case until an adoption decree is entered. ~~★~~ An in-court appearance hearing must be held every 90 days following termination of parental rights for the court to review progress toward an adoptive placement and the specific recruitment efforts the agency has taken to find an adoptive family or other placement living arrangement for the child and to finalize the adoption or other permanency plan.

(c) The responsible social services agency may make a determination of compelling reasons for a child to be in long-term foster care when the agency has made exhaustive efforts to recruit, identify, and place the child in an adoptive home, and the child continues in foster care for at least 24 months after the court has issued the order terminating parental rights. A child of any age who is under the guardianship of the commissioner of the Department of Human Services and is legally available for adoption may not refuse or waive the commissioner's agent's exhaustive efforts to recruit, identify, and place the child in an adoptive home required under paragraph (b) or sign a document relieving county social services agencies of all recruitment efforts on the child's behalf. Upon approving the agency's determination of compelling reasons, the court may order the child placed in long-term foster care. At least every 12 months thereafter as long as the child continues in out-of-home placement, the court shall conduct ~~★~~ an in-court permanency review hearing to determine the future status of the child using the review requirements of section 260C.201, subdivision 11, paragraph (g).

(d) The court shall retain jurisdiction through the child's minority in a case where long-term foster care is the permanent disposition whether under paragraph (c) or section 260C.201, subdivision 11.

ARTICLE 4

FATHERS; NONCUSTODIAL PARENTS

Section 1. Minnesota Statutes 2009 Supplement, section 260C.007, subdivision 25, is amended to read:

Subd. 25. **Parent.** (a) "Parent" means a person who has a legal parent and child relationship with a child ~~under section 257.52~~ which confers or imposes on the person legal rights, privileges, duties, and obligations consistent with sections 257.51 to 257.74 or

22.1 257.75. It includes the mother and child relationship and the father and child relationship.
22.2 For matters governed by the Indian Child Welfare Act, parent includes any Indian
22.3 person who has adopted a child by tribal law or custom, as provided in section 260.755,
22.4 subdivision 14. ~~For matters governed by the Indian Child Welfare Act, parent, and~~ does
22.5 not include the unwed father where paternity has not been acknowledged or established.
22.6 ~~Parent does not mean a putative father of a child unless the putative father also meets the~~
22.7 ~~requirements of section 257.55 or unless the putative father is entitled to notice under~~
22.8 ~~section 259.49, subdivision 1.~~

22.9 (b) A legally recognized parent and child relationship is established for purposes
22.10 of this chapter between:

22.11 (1) a child and a biological mother, by proof of her having given birth to the child, or
22.12 under sections 257.51 to 257.74 or 257.75;

22.13 (2) a child and father when:

22.14 (i) there is a presumption of paternity under section 257.55, subdivision 1,
22.15 paragraphs (a), (b), or (c), and no action has been taken to declare the nonexistence of
22.16 the father and child relationship;

22.17 (ii) there is a presumption of paternity under section 257.55, subdivision 1,
22.18 paragraph (d), and there is an adjudication of paternity under sections 257.51 to 257.74,
22.19 or the father and mother have signed a recognition of parentage having the effect of an
22.20 adjudication under section 257.75;

22.21 (iii) there is a presumption of paternity under section 257.55, subdivision 1,
22.22 paragraphs (e), (f), (g), or (h), and there is an adjudication of paternity under sections
22.23 257.51 to 257.74;

22.24 (iv) there is no presumption of paternity under section 257.55, but the father has
22.25 been adjudicated by court order under sections 257.51 to 257.74;

22.26 (v) there is no presumption of paternity under section 257.55, but the father and
22.27 mother have signed a Recognition of Parentage having the effect of adjudication under
22.28 section 257.75;

22.29 (vi) there is a positive test result under section 257.62, subdivision 5, and the
22.30 father is adjudicated as the father of the child either by court order under sections 257.51
22.31 to 257.74, or because the father and the child's mother have signed a Recognition of
22.32 Parentage having the effect of adjudication under section 257.75; or

22.33 (vii) the parent and child relationship is established under section 260.755,
22.34 subdivision 14; or

22.35 (3) between a child and an adoptive parent by proof of adoption.

Sec. 2. Minnesota Statutes 2009 Supplement, section 260C.150, subdivision 3, is amended to read:

Subd. 3. **Identifying parents of child; diligent efforts; data.** (a) The responsible social services agency shall make diligent efforts to identify and locate both parents of any child who is the subject of proceedings under this chapter. Diligent efforts include:

(1) asking the custodial or known parent to identify any nonresident parent of the child and provide information that can be used to verify the nonresident parent's identity including the dates and locations of marriages and divorces; dates and locations of any legal proceedings regarding paternity; date and place of the child's birth; nonresident parent's full legal name; nonresident parent's date of birth, or if the nonresident parent's date of birth is unknown, an approximate age; the nonresident parent's Social Security number; the nonresident parent's whereabouts including last known whereabouts; and the whereabouts of relatives of the nonresident parent. For purposes of this subdivision, "nonresident parent" means a parent who does not reside in the same household as the child or did not reside in the same household as the child at the time the child was removed when the child is in foster care;

(2) obtaining information that will identify and locate the nonresident parent from the county and state of Minnesota child support enforcement information system;

(3) requesting a search of the Minnesota Fathers' Adoption Registry 30 days after the child's birth; and

(4) using any other reasonable means to identify and locate the nonresident parent.

(b) The agency may disclose data which is otherwise private under section 13.46 or 626.556 in order to carry out its duties under this subdivision.

(c) Upon the filing of a petition alleging the child to be in need of protection or services, the responsible social services agency may contact a putative father who registered with the Minnesota Fathers' Adoption Registry more than 30 days after the child's birth. The social service agency may consider a putative father for the day-to-day care of the child under section 260C.212, subdivision 4, if the putative father cooperates with genetic testing and there is a positive test result under section 257.62, subdivision 5. Nothing in this paragraph:

(1) relieves a putative father who registered with the Minnesota Fathers' Adoption Registry more than 30 days after the child's birth of the duty to cooperate with paternity establishment proceedings under section 260C.212, subdivision 4;

(2) gives a putative father who registered with the Minnesota Fathers' Adoption Registry more than 30 days after the child's birth the right to notice under section

24.1 260C.151 unless the putative father is entitled to notice under sections 259.24 and 259.49,
24.2 subdivision 1, paragraph (a) or (b), clauses (1) to (7); or
24.3 (3) establishes a right to assert an interest in the child in a termination of parental
24.4 rights proceeding contrary to section 259.52, subdivision 6, unless the putative father is
24.5 entitled to notice under sections 259.24 and 259.49, subdivision 1, paragraph (a) or (b),
24.6 clauses (1) to (7).

24.7 Sec. 3. Minnesota Statutes 2009 Supplement, section 260C.151, subdivision 1, is
24.8 amended to read:

24.9 Subdivision 1. **Issuance of summons.** After a petition has been filed and unless
24.10 the parties hereinafter named voluntarily appear, the court shall set a time for a hearing
24.11 and shall issue a summons requiring the child's parents who have a legally recognized
24.12 parent-child relationship as established under sections 257.51 to 257.74, 257.75, or
24.13 260.755, subdivision 14, or legal guardian and any person who has legal custody of the
24.14 child to appear before the court at a time and place stated. The summons shall have a
24.15 copy of the petition attached, and shall advise the parties of the right to counsel and of
24.16 the consequences of failure to obey the summons. The court shall give docket priority to
24.17 any child in need of protection or services or neglected and in foster care, that contains
24.18 allegations of child abuse over any other case. As used in this subdivision, "child abuse"
24.19 has the meaning given it in section 630.36, subdivision 2.

24.20 Sec. 4. Minnesota Statutes 2008, section 260C.163, subdivision 2, is amended to read:

24.21 Subd. 2. **Right to participate in proceedings.** A child who is the subject of
24.22 a petition, and the parents, guardian, or legal custodian of the child have the right to
24.23 participate in all proceedings on a petition. Official tribal representatives have the right
24.24 to participate in any proceeding that is subject to the Indian Child Welfare Act of 1978,
24.25 United States Code, title 25, sections 1901 to 1963.

24.26 Parents with a legally recognized parent-child relationship as established under
24.27 sections 257.51 to 257.74, 257.75, or 260.755, subdivision 14, shall be parties to the
24.28 proceedings until the existence of the parent-child relationship is terminated by the court.

24.29 Any grandparent of the child has a right to participate in the proceedings to the
24.30 same extent as a parent, if the child has lived with the grandparent within the two years
24.31 preceding the filing of the petition. At the first hearing following the filing of a petition,
24.32 the court shall ask whether the child has lived with a grandparent within the last two years,
24.33 except that the court need not make this inquiry if the petition states that the child did not

live with a grandparent during this time period. Failure to notify a grandparent of the proceedings is not a jurisdictional defect.

If, in a proceeding involving a child in need of protection or services, the responsible social services agency recommends transfer of permanent legal and physical custody to a relative, the relative has a right to participate as a party, and thereafter shall receive notice of any hearing in the proceedings.

Sec. 5. Minnesota Statutes 2009 Supplement, section 260C.178, subdivision 3, is amended to read:

Subd. 3. Parental visitation. (a) If a child has been taken into custody under section 260C.151, subdivision 5, or 260C.175, subdivision 1, clause (2), item (ii), and the court determines that the child should continue in foster care, the court shall include in its order notice that the responsible social services agency has a duty to develop and implement a plan for parental visitation of and contact with the child that promotes the parent and child relationship unless the court finds that visitation would endanger the child's physical or emotional well-being.

(b) Unless the court finds that visitation would endanger the child's physical or emotional well-being or unless paragraph (c) or (d) apply, the plan for parental visitation required under section 260C.212, subdivision 1, paragraph (c), clause (5), must be developed and implemented by the agency and the child's parents as soon as possible after the court's order for the child to continue in foster care. If either parent of the child disagrees with the visitation plan, including a requirement for supervised visits, upon request the parent shall be entitled to a hearing on the plan. This hearing may occur at a regularly scheduled hearing. The court may modify the plan if the court determines that it is in the best interest of the child.

(c) When a parent has had no or only limited visitation or contact with the child prior to the court order for the child to continue in foster care, the court ~~shall not~~ may order a visitation plan developed and implemented ~~until~~ while the agency ~~has conducted~~ conducts the assessment of the parent's ability to provide day-to-day care for the child required under section 260C.212, subdivision 4.

(d) When it is in the best interests of the child, the agency may ask the court to defer its duty to develop a visitation plan between a putative father and the child until the paternity status of the child's father is adjudicated or until there is a positive test result under section 257.62, subdivision 5.

(e) The visitation plan developed under this subdivision is the same visitation plan required under section 260C.212, subdivision 1, paragraph (c), clause (5).